

### REMARKS

The specification and claims have been amended to insert information concerning a deposit of seed of the claimed variety. The claims reflect the entry of the Examiner's Amendment. No new matter is added by the amendments.

A declaration demonstrating that the deposit complies with all of the relevant rules has been attached herewith.

### CONCLUSION

In view of the foregoing, it is believed that the case is in condition for issuance and such action is respectfully requested. The Office is invited to contact the undersigned at (512) 536-3085 with any questions relating to the referenced patent application.

Respectfully submitted,



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Date: December 20, 2006



## APPENDIX A



**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Lance Veldboom

Serial No.: 10/730,763

Filed: 12/08/2003

For: Plants and Seeds of Corn Variety LH249

Group Art Unit: 1638

Examiner: Bui, Phuong

Atty. Dkt. No.: HFSC:018US

CERTIFICATE OF MAILING  
37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date below:

12/20/06

Date

  
Robert E. Hanson

**DECLARATION OF BIOLOGICAL CULTURE DEPOSIT**

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

I, Timothy R. Kain, hereby declare:

1. I have been employed by Monsanto Company as a Research Assistant from 1995 to 1997 and since 1997, as Patent Scientist, having as my primary responsibility the collection and control of information for the legal protection of Monsanto Company proprietary inbreds and hybrids.

2. That the following material referred to in the specification of the above-referenced application has been deposited with a depository meeting Budapest Treaty requirements:

TAXONOMIC DESCRIPTION

ATCC DEPOSIT NUMBER

2500 seeds of Zea mays – Corn Variety LH249

PTA-7975

3. I affirm that should the seed deposit become nonviable or be inadvertently destroyed, I will replace such seed for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the effective life of any patent issued on the above-mentioned application, whichever period is longer.

4. That with respect to availability of the seed, I affirm that the deposit will be made under conditions of assurance of:

- (a) ready accessibility thereto by the public if a patent is granted, whereby all restrictions to the availability to the public of the seed so deposited will be irrevocably removed upon the granting of the patent; and
- (b) access to the seed will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122. Evidence of the accessibility of the seed as set forth above is provided in the form of the attached copy of the contract with the above mentioned depository with respect to the deposited seed.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: December 8, 2006

  
\_\_\_\_\_  
Timothy R. Kain

# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

To: (Name and Address of Depositor or Attorney)

Monsanto Co.

ATTN: Timothy R. Kain

8350 Minnegan Road

Waterman, IL 60556

Deposited on Behalf of: Monsanto Technology LLC

**Identification Reference by Depositor:**

Corn Seed Zea mays: I060062

Corn Seed Zea mays: I226218

Corn Seed Zea mays: I133314

Corn Seed Zea mays: LH249

Corn Seed Zea mays: I029010

**Patent Deposit Designation**

PTA-7972

PTA-7973

PTA-7974

PTA-7975

PTA-7976

The seeds were accompanied by: ☒ a scientific description \_\_\_ a proposed taxonomic description indicated above. The seeds were received November 7, 2006 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

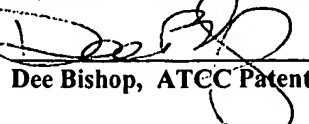
If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested November 20, 2006. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

  
Dee Bishop, ATCC Patent Depository

Date: November 29, 2006

cc: Robert Hanson

(Ref: Docket or Case # DEKA:345US; DEKA:381US; DEKA:353US; HFSC:018US; DEKA:343US)